

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * * *

COLLEEN BROOKE CRAWFORD,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

03:05-CV-0022-LRH (RAM)

ORDER

Presently before the court is the United States of America's unopposed request for consideration of a Rule 60(b) motion (#16¹). The United States seeks review under Federal Rule of Civil Procedure 60(b) based on recently discovered evidence that the underlying tax liability in this matter was paid prior to the court's granting of summary judgment to Plaintiff Colleen Crawford (#9).

The court notes that the United States has appealed the court's prior order of summary judgment (#11), and that the appeal is still pending before the Ninth Circuit. Generally, a notice of appeal divests this court of jurisdiction to hear a motion brought pursuant to Rule 60(b). *See G.C. & K.B. Investments, Inc. v. Wilson*, 326 F.3d 1096, 1101 n.2 (9th Cir. 2003). However, the Ninth Circuit has crafted a procedure to allow for a remand to the trial court when facts arise which would allow for relief under Rule 60(b) after an appeal has been taken. *See Williams v. Woodford*, 384 F.3d 567, 586 (9th Cir. 2004). Under this procedure, the party requesting review under Rule 60(b) first requests the district court whether it wishes to entertain or grant the Rule

¹ References to (#XX) refer to the court's docket.

1 60(b) motion. If the court would be so inclined, the party seeking review then petitions the Ninth
2 Circuit for a remand so that the district court may entertain the motion. *Id.*

3 The court has reviewed the United States request that the court entertain a Rule 60(b)
4 motion. According to the United States, the underlying tax liability which necessitated this
5 action was paid prior to the court's order. Should this assertion prove true, the issue before the
6 court would have been moot prior to the court's order. Accordingly, the court would be willing
7 to entertain a Rule 60(b) motion should the Ninth Circuit remand this matter for that purpose.

8 It is therefore ORDERED that the United States' unopposed request for consideration of a
9 Rule 60(b) motion (#16) is GRANTED;

10 The court would entertain such a motion should the Ninth Circuit remand this matter.

11 DATED this 13th day of November, 2006.

12 

13
14
15 LARRY R. HICKS
16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28